

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DASSAULT SYSTÈMES, S. E.
and DASSAULT SYSTÈMES SOLIDWORKS
CORPORATION,

Plaintiffs,

- v. -

SELDAT DISTRIBUTION INC.,

Defendant.

Index No.:

COMPLAINT

Jury Trial Demanded

Plaintiffs Dassault Systèmes, S.E. (“Dassault Systèmes”) and Dassault Systèmes SolidWorks Corporation (“Dassault Systèmes SolidWorks”) (collectively, “Dassault”) by their undersigned counsel as and for their Complaint against Defendant Seldat Distribution Inc. (“Seldat”) hereby allege as follows:

NATURE OF THE ACTION

This is a copyright infringement action arising out of Seldat’s unauthorized and willful use and copying of Dassault’s CATIA V5 and SOLIDWORKS software packages.

THE PARTIES

1. Plaintiff Dassault Systèmes is a Corporation of France having a principal place of business at 10, rue Marcel Dassault, 78140 Vélizy-Villacoublay, France.

2. Plaintiff Dassault Systèmes SolidWorks is a corporation of the Commonwealth of Massachusetts, having a principal place of business at 175 Wyman Street, Waltham, MA 02451-1223.

3. On information and belief, Defendant Seldat Distribution Inc. is a New Jersey Corporation with offices at 1412 Broadway, Suite 2302, New York, NY 10018.

JURISDICTION AND VENUE

4. This action arises under 17 U.S.C. §101 et seq. for infringement of copyrights owned by Dassault.

5. This Court has subject matter jurisdiction over these copyright infringement claims pursuant to 28 U.S.C. §§ 1331, 1332(a) and 1338(a).

6. This Court has personal jurisdiction over Defendant because Defendant has transacted business in New York and in this judicial district.

7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(2), 1391(c)(2), and 1391(d).

BACKGROUND

Dassault and the Copyrighted Works

1. Dassault Systèmes is a French company established in 1981.
2. Dassault Systèmes SolidWorks is Massachusetts corporation, related to Dassault Systèmes.

THE CATIA V5 SOFTWARE PACKAGE

3. Dassault Systèmes is the creator, author and owner of the software code for the CATIA V5 software package, a three dimensional computer aided design (CAD) software package.

4. Dassault Systèmes has created, authored and is the owner of various “releases” of CATIA V5, each building upon the prior release.

5. Dassault Systèmes owns many United States copyright registrations for the CATIA V5 software package, including (i) U.S. Copyright Registration No. TX0005337248 titled “CATIA: V5R4 (for Intel),” and (ii) U.S. Copyright Registration No. TX0008372404 titled “CATIA V5-6R2016 (CATIA V5 R26)” (collectively, the “CATIA V5 Copyright Registrations”), attached as Exhibit 1, hereto.

6. The CATIA V5 Copyright Registrations evidence Dassault Systèmes’ copyrights in the CATIA V5 software, including CATIA V5 R26.

THE SOLIDWORKS SOFTWARE PACKAGE

7. Dassault Systèmes SolidWorks is the creator, author and owner of the software code for the SOLIDWORKS software package, which, like CATIA 5, is a CAD software package.

8. Dassault Systèmes SolidWorks has created, authored and is the owner of various “releases” of SOLIDWORKS, each building upon the prior release.

9. Dassault Systèmes SolidWorks owns many copyright registrations for the SOLIDWORKS software package, including (i) U.S. Copyright Registration No. TX0005225647 titled “SolidWorks 2000 : pt. 1,” (ii) U.S. Copyright Registration No. TX0005666476 titled “SolidWorks 2001 plus,” (iii) U.S. Copyright Registration No. TX 0005725523 titled “Solidworks,” and (ii) U.S. Copyright Registration No. TX0008101716 titled “SOLIDWORKS 2015” (the “SOLIDWORKS Copyright Registrations”), attached as Exhibit 2, hereto.

Seldat’s Infringement

10. Seldat purports to “provide[] innovative, scalable solutions and services that help companies in every link of the world’s supply chain grow and prosper.” See www.seldatinc.com/about-us.

11. Seldat downloaded, executed and used Dassault’s CATIA V5 software package without authorization or permission from Dassault beginning at least as early as 2017.

12. Seldat downloaded, executed and used Dassault’s SOLIDWORKS software package without authorization or permission from Dassault starting in early 2016.

13. On January 17, 2018, counsel for Dassault sent a letter to Seldat via email to Mr. Daniel Dadoun, offering to resolve Seldat’s unauthorized use of

CATIA V5 and SOLIDWORKS without litigation. The January 17 letter is attached as Exhibit 3, hereto.

14. On January 24, 2018, Ms. Modeline Fenelon, In-House Counsel for Seldat, responded by letter, admitting that Seldat had downloaded and opened the CATIA V5 software, but denying that Seldat had downloaded the SOLIDWORKS software. The January 24 letter is attached as Exhibit 4, hereto.

15. Dassault's counsel and business representatives attempted to communicate with Ms. Fenelon thereafter, but Ms. Fenelon was nonresponsive.

16. On March 8, 2018, Dassault's counsel sent a second letter to Mr. Dadoun at Seldat, again seeking to establish communication to resolve Seldat's unauthorized use of Dassault's CATIA V5 and SOLIDWORKS software packages. The March 8 Letter is attached as Exhibit 5, hereto.

17. Seldat has not responded to Dassault's March 8, 2018 letter.

COUNT I

FEDERAL COPYRIGHT INFRINGEMENT (17 U.S.C. §501) **CATIA V5**

18. Dassault repeats and incorporates herein each of the preceding paragraphs.

19. CATIA V5, including CATIA V5 R26, is an original work of Dassault Systèmes and is protectable by the copyright laws of the United States.

20. Dassault Systèmes owns all rights and title to the copyrights for CATIA V5.

21. Seldat downloaded Release 26 of the CATIA V5 software to a computer storage unit, such as a hard disk drive, via the Internet, thereby creating a copy of the CATIA V5 software without authorization or permission from Dassault Systèmes.

22. Subsequent to downloading a copy of CATIA V5, Seldat executed the CATIA V5 software on one or more computers without authorization or permission from Dassault Systèmes.

23. Each time Seldat executed CATIA V5, Seldat caused a computer to copy the CATIA V5 software code stored on the computer storage unit (e.g., hard disk drive) to the computer's volatile memory, e.g., random access memory (RAM), without authorization or permission from Dassault Systèmes.

24. Seldat executed CATIA V5 at least on a computer(s) having MAC addresses 3417eb7865d3, d07e3526ea30 and d07e3526ea31.

25. By making unauthorized copies of CATIA V5 as described above, Seldat infringed and violated Dassault Systèmes' copyrights in CATIA V5 and the CATIA V5 Copyright Registrations, including at least Dassault Systèmes' exclusive right under 17 U.S.C. §106(1) "to reproduce the copyrighted work in copies..."

26. Seldat's infringement and violation of Dassault Systèmes' copyrights has been knowing and willful.

27. Dassault has been damaged by the aforementioned infringement.

COUNT II

FEDERAL COPYRIGHT INFRINGEMENT (17 U.S.C. §501) **SOLIDWORKS**

28. Dassault repeats and incorporates herein each of the preceding paragraphs.

29. SOLIDWORKS, including SOLIDWORKS 2015, is an original work of Dassault Systèmes SolidWorks and is protectable by the copyright laws of the United States.

30. Dassault Systèmes SolidWorks owns all rights and title to the copyrights for SOLIDWORKS.

31. Seldat downloaded the SOLIDWORKS 2015 release of the SOLIDWORKS software to a computer storage unit, such as a hard disk drive, via the Internet, thereby creating a copy of the SOLIDWORKS software without authorization or permission from Dassault Systèmes SolidWorks.

32. Subsequently to downloading a copy of SOLIDWORKS, Seldat executed the SOLIDWORKS software on one or more computers without authorization or permission from Dassault Systèmes.

33. Each time Seldat executed SOLIDWORKS, Seldat caused a computer to copy the CATIA V5 software code stored on the computer storage unit (e.g., hard disk drive) to the computer's volatile memory, e.g., random access memory (RAM) without authorization or permission from Dassault Systèmes SolidWorks.

34. Seldat executed SOLIDWORKS at least on a computer(s) having MAC addresses 1c394722891a, 40b89af80d27, and 42b89af80d27.

35. By making unauthorized copies of SOLIDWORKS as described above, Seldat infringed and violated Dassault Systèmes SolidWorks' copyrights in SOLIDWORKS and the SOLIDWORKS Copyright Registrations, including at least Dassault Systèmes SolidWorks' exclusive right under 17 U.S.C. §106(1) "to reproduce the copyrighted work in copies..."

36. Seldat's infringement and violation of Dassault Systèmes SolidWorks' copyrights has been knowing and willful.

37. Dassault has been damaged by the aforementioned infringement.

PRAYER FOR RELIEF

WHEREFORE, Dassault prays for relief as follows:

A. For a judgement determining that Seldat has infringed Dassault's copyrights in violation of 17 U.S.C. §501;

B. For a finding that such infringement was willful;

C. For a judgment preliminarily and permanently enjoining and restraining Seldat, including its officers, directors, employees, agents and servants, and all those in active concert of participation with any of them, from directly or indirectly infringing Dassault's copyrights;

D. For a judgment awarding Dassault (i) its actual damages in an amount to be determined in excess of \$75,000, (ii) any profits of Seldat, (iii) statutory damages of \$150,000 per act of infringement, and (iv) costs of this action including attorneys' fees as permitted pursuant to 17 U.S.C. §§ 504 and 505;

E. For a judgment awarding Dassault any other damages to which it is entitled under statute or common law;

F. For such other and further relief as the Court deems just and proper.

DEMAND FOR A JURY TRIAL

Dassault hereby demands a trial by jury in this action.

Dated: October 19, 2018

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